Approved For Release 2006/08/29 : CIA-RDP80R01731R001300010007-4

ER 0-7197

The Director

28 October 1949

The Assistant General Counsel

Classification Act of 1949

1. The Classification Act of 1949 has been passed by the Congress and is awaiting Presidential signature. It is believed that it will be signed prior to the commencement of the next pay period on 30 October. The Act takes effect on the first day of the first pay period after the date of its enactment.

2. Section 202 (16) of the Classification Act of 1949 states that the Act shall not apply to the Central Intelligence Agency. Therefore, we are presented with the question: under what authority and at what rate shall CIA personnel be compensated.

3. Section 43 of Title 5 of the United States Code states that there is authorized to be employed in each executive department such number of employees of the various classes recognized by the appropriate sections of the Classification Act of 1923 as Congress may appropriate funds for from year to year. Section 1106 (a) of the Classification Act of 1949 states that whenever reference is made in any other law to the Classification Act of 1923 such reference shall be held and considered to mean the Classification Act of 1949. Therefore, in effect, 5 USCA 43 (in conjunction with Section 10 of the Central Intelligence Agency Act of 1949) is authorization for the Central Intelligence Agency to employ and compensate such employees of the various classes recognized by the Classification Act of 1949 as may be appropriated for by Congress from year to year.

4. Section 604 of the Classification Act of 1949 states that positions which were formerly established in the service under the Classification Act of 1923 are allocated to corresponding grades of the General Schedule or the CPC Schedule of the Classification Act of 1949 in line with a conversion table set forth in the Act.

MORI/CDF

Counsel

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5. In view of the above facts, it is the opinion of this Office that the appropriate CIA officials should be authorized by the Director to place the employees of this Agency for pay purposes in the appropriate grades of the Classification Act of 1949 in accordance with the procedures outlined in that Act. We believe, however, that, at the present time, this authorization should be limited to the new General Schedule Grades 1 through 15, inclusive, and the CPC Grades.

6. It is the further opinion of this Office that all employees of this Agency may receive overtime pay and compensatory time provided that no employee shall receive compensation at a rate in excess of $11,000 per annum. This overtime pay and compensatory time shall not apply to those holding positions whose salaries are expressly fixed by law

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7. The Classification Act of 1949 established three additional grades at $11,000, $12,000 and $14,000. The Act places specific numerical limitations upon the number of employees who shall be admitted into these grades. In view of this Agency's exemption from the Act, it is the considered opinion of this Office that Agency employees may be placed in General Schedule Grades 16, 17, and 18 without regard to the Act's limitations as to the numbers of employees who can be placed therein. However, there is still question as to the interpretation of these provisions and the certifying officers would therefore find it necessary to suspend the vouchers of any payments in General Schedule Grades 16, 17, and 18. For this reason, the question must be formally submitted to the General Accounting Office for a ruling, and a letter for your signature in this connection is being prepared.

Walter L. Pforzheimer

Recommendations approved 28 Oct '49

The Director

The Executive

Budget Officer

Personnel Dir

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